



*From the Scottish Review, 1885.*ART. V.—CANADA: ITS POLITICAL DEVELOPMENT. *4 P. 211*

1. *Parliamentary Government in the British Colonies.* By ALPHEUS TODD, Librarian of Parliament, Canada. Boston, 1880.
2. *Colonies and Dependencies.* By J. S. COTTON and E. J. PAYNE. London, 1883.
3. *Census of Canada.* 1880-81.
4. *Trade and Navigation. Returns of Canada for 1884.*
5. *Constitution of Canada.* By JOSEPH DOUTRE, Q.C. Montreal, 1880.

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THE great interest that is now taken in questions affecting *the* our Colonial Empire shows quite clearly that Britain has been at last fully aroused from that 'fit of absence of mind' in which, as Professor Seeley somewhat sarcastically observes, 'she has conquered and peopled half the world,' and that she has begun to realize that an English people means something more than 'simply a race inhabiting an island off the northern coast of the Continent of Europe.' This interest in the Colonies certainly stands out in remarkable contrast with the indifference that was too often felt by Englishmen whenever colonial matters were brought under their notice. For many years the Colonies were generally associated with some grievance, which it was not always possible for the officials of Downing Street to understand or remedy. Public men, as a rule, were not likely to win much *clat* in England by devoting themselves to the consideration of Colonial questions. Governors-General sometimes thought it a form of banishment to be forced, for public or private reasons, to preside for a few years over the destiny of a Colony. We find Lord Sydenham, better known as Poulett Thomson in English political history, lamenting on one occasion in a letter to a friend that it was not at all probable that his successful administration of the affairs of Canada would render him 'half so *marquant* a person as a good speech in the House of Commons, or a pleasant breakfast at Greenwich would have done.' Even Mr. Disraeli,

who posed towards the close of his career as the very pillar of Imperialism, was at one time among those who had no very high opinion of the colonial connection. In 1852, whilst Chancellor of the Exchequer in Lord Derby's Ministry, he wrote to Lord Malmesbury, then Foreign Secretary, 'These wretched Colonies will all be independent in a few years, and are a millstone around our necks.' Some persons will probably say that the imaginative mind of the author of *The Wondrous Tale of Alroy* always found a greater attraction in the magnificent glamour of the Eastern Empire, than in the constitutional struggles of free communities like Canada. Be that as it may, there is every reason to believe that at the time Mr. Disraeli wrote these words, and in fact for some years later, British statesmen had no very clear conception of the value and importance of Colonies. They had constantly before them the fact that the defence of the Colonies involved a heavy annual expenditure, which though they could hardly explain it to the satisfaction of the tax-payer, was more than balanced by the prestige of a Colonial Empire. But no doubt much of the indifference felt for the colonial connection must be traced to the general conviction expressed in so many words by Mr. Disraeli, that the time must come when the Colonies would separate from England and become independent, as the natural outcome of the self-government conceded to them by the parent State.

[ Lord Derby, who is certainly the last man in England to take a sentimental view of any question, gave expression quite recently to the change of mood with respect to the Colonial dependencies since the day Mr. Disraeli wrote the memorable words we have quoted. 'I do not believe,' he said on the 3rd of March last, 'that at this time, or for twenty years past, any man has looked upon the Colonies as a burthen to the Empire, or that it was desirable that any of them should secede.' ] It is not necessary, *not a-b-* to go into any elaborate argument to prove that prosperous countries like the Dominion of Canada, or the Colonies of Australia, can no longer be fairly considered millstones around the neck of England. If a British regiment is still sent to Canada, it is simply because it is necessary to make a show of British sovereignty. If British men of war still visit Canadian ports, it is because England must keep her sailors employed. Canada

now recognizes fully her obligations to maintain a well organized militia force for purposes of order and defence; and the British tax-payer can no longer assert with any degree of justice that the connection with this important dependency is a cause of taxation. Englishmen see in this very fact so much evidence of the rapid development of the new Dominion. They cannot fail to admit that her people are proving to the world every day that they possess those qualities which go to constitute a nation. The thought will then probably occur to an Englishman that the prestige of his country will hardly be enhanced in the opinion of Europe, if all those great Colonial dependencies that form the Empire were to be allowed to separate without an effort to draw them closer to the parent State. At a time when other peoples in Europe are ambitious to found colonies, it would indeed be strange that Britain, the greatest colonizer among the nations, should allow herself, through her own indifference, to be isolated eventually from those countries which it is her most enduring glory to have founded.

The history of the constitutional progress of Canada is peculiarly instructive, because it illustrates so clearly the beneficial effects of the liberal Colonial policy which was first developed practically by Lord John Russell in 1839, and steadily carried out by his successors in the office of Colonial Secretary, notably by Earl Grey in 1847, when Lord Elgin was appointed Governor-General. This new policy, which reunited the Canadas, and conceded to them a larger measure of self-government, was an entire reversal of the policy which had characterized the administration of Colonial affairs for more than half a century. From 1792 to 1840 Canada was governed from Downing Street. This was the period memorable in Colonial history for the steady interference of the Imperial authorities in the internal affairs of the country. In 1792 the Imperial Government established representative Assemblies both in Upper and Lower Canada, with the object, as stated by a Lieutenant-Governor, of giving the people a form of government which would be, 'as far as the circumstances of the country would permit, an image and transcript of the British Constitution.' But this new system was extremely defective in a vital part. It was after all but a mere

semblance of the British Constitution on which it was based. On the one hand it gave the people representation in the Legislature, and on the other placed all the substantial power in an Executive, over which the people's House could exercise no control. The result was, in the course of time, an irrepressible conflict between the elected Assembly and the nominated Executive and Legislative Councils who, with the Governor, really governed the country. The Executive Government did not bear any responsibility to the people as represented in the Legislature, and was generally a mere reflex of the will of the Governor, who was sometimes an irascible military man, accustomed to the discipline of a garrison, and little inclined to conciliatory or moderate methods of administering public affairs. The Governor-General himself was always instructed by the Imperial authorities, who, it must be presumed, too often in the pressure of other and, as they believed, more important affairs, left matters pretty much in the hands of some clerk in Downing Street. Lord Durham, during his brief tenure of office as Governor-General and High Commissioner, immediately recognized the important fact that his plan of reuniting the Canadas under one Legislature would be hardly workable, unless the Government was responsible to the popular branch.

'I would not impair,' he wrote in his Report of 1839, 'a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these provinces require the protection of prerogatives which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.'

The result of Lord Durham's mission was the Act of 1840, reuniting the two provinces of Canada; a measure well calculated to promote the material, the political, and the intellectual development of the two sections, since it enlarged their sphere of political action and otherwise stimulated their national growth. The outcome of the union was the concession of Responsible Government in its completest sense, by the time Lord Elgin assumed the Governorship. This important constitutional prin-

ciple was not embodied in any statute; for, as Lord John Russell truly said in a despatch to Lord Sydenham, 'It was impossible to reduce into the form of a positive enactment a constitutional principle of this nature.' Consequently we can trace its history only in the despatches and instructions issued from time to time to Governors-General, more particularly to Lord Elgin, who had the gratification of establishing the principle most firmly before he retired from the administration of Canadian affairs. The effect of the larger sphere of political action opened up to the public men of Canada by the Act of 1840, and its logical sequence, responsible government, was the conciliation of all the rebellious elements that had existed previously. The Liberals of the Western section were content now that it was no longer possible to rule the country through an official clique, and an irresponsible Executive. The French Canadians, day by day, saw their influence increased by a union which it had been actually expected by Lord Durham and other English statesmen would have had the very opposite effect. The grievances which had so long irritated them disappeared one after the other, and the very measure they had so frequently urged in vain on the Imperial Government previous to the troubles of 1837-8,—an Elective Legislative Council,—was actually conceded to the Legislature of the United Provinces under the influence of the new and wise policy adopted by the Imperial authorities. In ten years from the commencement of the union and the concession of self-government, it would have been impossible to suppose that this was the same country where Lord Durham frankly confessed in 1839, there were many people inclined to Annexation with the United States, when they compared its free government and prosperous condition with the poverty and illiberal institutions of their own country.

The Act of 1840 remained in force for just a quarter of a century, and was repealed by the new constitution of 1867, which brought all the principal provinces of British North America into a federal union. The public men of Canada, after so many years of self-government, recognized the necessity of bringing a number of provinces, long politically and commercially isolated from each other, into a union which would enable them

to stimulate intercolonial trade, build national works, and promote measures of national defence. The union of 1840 had shown the Canadians the advantages of home government, and made them naturally ambitious of again enlarging their sphere of political action. Political jealousies had arisen between the English and French sections on account of the Western province demanding increased representation. These jealousies were aggravated by the politicians, until at last a union of all British North America was believed to be the best solution of existing difficulties. The idea of a federation had been foreshadowed by Lord Durham, but it took twenty-five years to waken Canadian politicians to its advantages. The British Government readily co-operated with the public men of the Provinces in bringing about the union. Fifty years before the officials of Downing Street had been constantly interfering, with injurious consequences, in the domestic affairs of Canada; but now it was their policy to allow the Colonies to manage their own business. Imperial interference was no longer considered expedient except in cases where Imperial interests were clearly involved. The policy inaugurated in 1840 had its logical sequence in the federal union of 1867, which gave a still larger measure of self-government to Canada.

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Seventeen years have passed away since the Canadian Provinces entered on this new era of political development, and whatever may be the defects of the federal system, it must be admitted that it has on the whole come up to the expectations of its founders. Already the Confederation, originally confined to four provinces, embraces all the territory between the Atlantic and Pacific Oceans. Within a few years a new province has grown up in the vast North-West, whose natural capabilities for the cultivation of cereals are now generally recognised; whence, in the course of a few decades of years, a considerable proportion of the world's supply of wheat must come. One great railway, which had been long vainly desired by the people of British North America, was soon built after the consolidation of the provinces, and the Western country connected with the provinces by the sea. A greater work, clearly of Imperial as well as Colonial interest, absolutely essential to the settlement of the



North West and to the unity of the Dominion, ~~will be~~ completed a few months hence between the Pacific Ocean and the old provinces. Short lines of railway have been built to connect with the three great roads of the Dominion, the Intercolonial, the Canadian Pacific, and the Grand Trunk. The Canals have been enlarged so as to give greater facilities for Western traffic, and, if possible, to make the St. Lawrence the principal artery for the rich agricultural country which lies around and beyond the Lakes. Manufactures have sprung up through the artificial stimulus given to capital and industry by a fiscal policy which, whatever English economists may think of its soundness, and however much it may be antagonistic to those principles of Free Trade which prevail in Great Britain, seems to have originated in the aspirations of the people to possess a 'national policy.' The aggregate trade of the Dominion, that is of the Imports and Exports, has increased in twenty years from £27,000,000 to £46,000,000, and the revenue has doubled within the same period. The people have now on deposit at interest in the various Banks, Loan, Building and other Companies probably £20,000,000, or £4 for every man, woman, and child in Canada. In addition to its effect upon the material condition of the country, Confederation has stimulated the intellectual development of the people. Educational facilities have been largely improved; the newspaper press has increased in influence, and not a few works of historical and constitutional value have been produced by Canadian authors, while art, scientific, and literary associations have been stimulated under the inspiration of the more progressive ideas, which have been the outcome of a political system which has given a wider scope to intellectual action.

But the most important result of Confederation has undoubtedly been the more intimate political, social, and commercial relations that the provinces have now with each other. Previous to 1867 there was little intercourse possible, whilst each province had a government and tariff of its own, but now the Maritime and Western sections are brought necessarily into immediate contact with one another, and made to feel that they have a common interest in each other's prosperity. The different races



that inhabit Canada have been harmonized to an extent that would hardly have been possible under any other system. The million and more of people who speak the French language, and still form a distinct section of the population, are found working earnestly with the English speaking majority in promoting the interests of the whole Dominion. Yet half a century ago the French Canadian people were in rebellion. If we find them now happy and contented, it is because they have at last attained that self-government for which they so long contended previous to 1840, and have special guarantees for the preservation of those institutions to which they are deeply attached. In the same way the Irish are seen working alongside the English and French for the advancement of those interests in which all are equally interested.

When framing the constitution of the Dominion, Canadian statesmen had before them the invaluable experience of the working of two great systems of government—the one in the parent State, the other in the United States. In considering the best method of consolidating the provinces under a federal system they were necessarily guided by the experiences of the great country on their borders. At the same time, while availing themselves of the best features of the American federation, they endeavoured to preserve as far as possible those English institutions which are calculated to give stability to their government. The result of their efforts is a constitution which, in the words of the original resolutions of confederation, ‘follows the model of the British constitution, so far as our circumstances will permit.’

The history of the circumstances under which the name of Dominion came to be given to the united provinces shows the desire of the Canadians to give to the confederation, at the very outset, a monarchical likeness in contradistinction to the republican character of the American federal union. We have it on the best authority that in 1866-7, the question arose during a conference between the Canadian delegates and the Imperial authorities what name should be given to the confederation of the provinces, and it was first proposed that it should be called ‘the kingdom of Canada;’ but it is said that the Earl of Carnarvon, then Secretary of State for the Colonies, thought such a designa-

tion inadvisable, chiefly on the ground that it would be probably objectionable to the government of the United States, which had so recently expressed its disapprobation of the attempt of the Emperor Napoleon to establish an imperial European dynasty in Mexico. It is difficult to understand how any parallel could be fairly drawn between the two cases, and most persons, less sensitive than the noble Lord, will probably consider that it was paying but a poor compliment to the common sense of the American people to suppose that they could take offence, on any reasonable grounds, at the Canadians, the subjects of the Queen, calling their confederation by a name which would simply illustrate their attachment to those monarchical institutions under which they had been living for a century and more. The famous message of President Monroe, in which he laid down the doctrine that any attempt of the European Powers to extend their system to any portion of the Western hemisphere, would be regarded as dangerous to the peace and safety of the United States, at the same time expressly stated that all existing rights and interests—such as those possessed by England in Canada—should be respected. However, the Canadian delegates made due allowance for the delicacy of the sentiments of the Colonial Secretary, and agreed as a compromise to the less ambitious title, Dominion of Canada, —a designation recalling that old Dominion, named by Raleigh in honour of the Virgin Queen.

The Dominion is governed by a central government in accordance with a written constitution known as the British North America Act, while each province still retains such an administrative and legislative machinery as is essential to its provincial existence. The Executive government and authority over Canada are vested in the Queen, but as the Sovereign cannot be present in the Dominion to perform those acts of state which the constitution requires at her hands, she is represented by a Governor-General, chosen every five years on the advice of her constitutional advisers. The permanency of the Executive is a feature of their government which the Canadians have learned to value by comparison with the elective system of the United States. The Governor-General of Canada is appointed without the country being excited by a political contest, the issue of which at

times is dangerous to the whole body politic. It is only necessary to consider the crisis through which the American Republic has so recently passed, to understand the nature of the peril in which the nation finds itself every four years. [We have just seen the election of the Chief Magistrate decided by a few hundred votes in a single State, out of over ten million votes that have been polled in the union. Political passion was excited for a while to fever heat; every effort was made by Mr. Blaine and his partisans to arouse old animosities between the North and South; and a few reckless politicians might at any moment have precipitated one of the most terrible conflicts that could convulse a people.] It is creditable to the nation that it should have passed through so serious a crisis with so much calmness, and that reckless partisanship has not dared to outrage public opinion, and change the popular verdict as in 1876-7; but, nevertheless, we cannot fail to see that once every four years the people are liable to pass through a similar ordeal. From such dangers Canada is happily free under her constitution, which makes the Sovereign the permanent head of the Executive, and removes her representative from the turmoil of political controversy. In the administration of public affairs, the Governor-General is guided by the advice of responsible advisers, representing the opinions of the majority of the Legislature. In Canada, for many years past, the policy of the Imperial Government has been to refuse to interfere in any way with its domestic affairs, but to leave them entirely in the hands of the Governor and his advisers, who act in such matters in accordance with the well known principles of the British constitutional system. It is only with respect to questions immediately affecting Imperial interests, especially the relations of the Empire with foreign nations, that the Governor can be said to be thrown to any extent on his own responsibility as an Imperial affair. Even in such matters he will generally find it necessary to consult his Colonial advisers, though he may not consider himself bound to adopt their advice. In these cases he can only follow the instructions of the Government, of which he is the accredited representative.

As in England, the Canadian Ministry is practically a committee of the dominant party in Parliament. Here again we

have evidence how little the public men of Canada are influenced by their intercourse with the United States. A thorough study of the British system, which requires Ministers to have seats, and receive the support of a majority, in Parliament, has clearly shown Canada its advantages over the American system. Indeed, the latter existed to a certain extent in Canada in those days when the governors appointed their executive councils without reference to the legislature. After an experience of over forty years of the working of responsible government, Canadians have become thoroughly convinced that the presence in the legislature of a body of men responsible to the Commons and to the country for the administration of public affairs, and for the conduct of legislation, has decided advantages over a system which gives the whole executive government to the President, and does not allow his ministers to sit or speak in either branch of Congress. Whenever it is necessary to form a Ministry in Canada, members are summoned by the Governor-General to the Privy Council of Canada; another illustration of the desire of the Canadians to imitate the old institutions of the parent state, and copy their time-honoured names. The government of the day is generally known as the Ministry or Cabinet, but there is no distinction as in England between those designations.

The Parliament of Canada consists of the Queen, a Senate, and a House of Commons. In the construction of the Upper Chamber or Senate, there has been an attempt to give it a shade of resemblance to the distinguished body of the same name in the United States. In the American Senate each State is represented by two members, and consequently little Rhode Island or Delaware has as much influence in the body as New York or Pennsylvania. In the formation of the Canadian Senate, each province has not the same number of Senators, but three geographical groups were arranged in the first instance, consisting of Ontario, Quebec, and the Maritime Provinces, and to each group was allotted a representation of twenty-four members. More recently new provinces have been admitted into the Dominion without reference to this arrangement, and now there are altogether seventy-eight senators in Parliament. Between the functions and responsibilities of the Canadian Senate and those of the

American body, there is no analogy whatever. The Senate of the United States has entrusted to it under the constitution much larger powers than are enjoyed by an upper chamber in the British parliamentary system. Though bills raising revenue can originate in the House of Representatives only, yet the Senate may propose or concur with amendments as in other bills; a privilege which the English or Canadian House of Commons will not concede to the Lords or Senate. The American Senate has the right to control the President in his nominations to public offices, and to review the treaties that he may make with foreign nations. The system of electing Senators by the legislature of each State has worked admirably, since it has sent to Congress so far a body of men, for the most part of intellectual power and high character. The Canadian Senate, on the other hand, is simply the House of Lords without the prestige that attaches to a body composed of hereditary legislators. It is ambitious, however, to claim a comparison in every way it can with the House of Lords, by basing its procedure upon that of its illustrious prototype, and by constituting itself a court for the trial of Divorce cases; the last being a proceeding not based on any legal right that the Senate has under the constitution, but one tacitly recognised as the most convenient method of dealing with a matter placed under the jurisdiction of the Canadian Parliament. The nomination of Senators by the Crown has certainly some advantages from a political point of view, since it enables a Ministry which has been in power for a long term of years to prevent any unpleasantness or inconvenience in the Senate, by filling up vacancies so as to make it a mere re-echo of its own political views. Very few bills originate in the Senate, and for weeks honourable gentlemen are obliged to adjourn until the Commons condescend to send them something to do. The fact is the Senate, like the Lords, has its difficulties. If it exercises its undoubted constitutional functions, and interferes with important legislation of the Lower House, if it rejects measures on which the popular chamber has strong opinions, there is at once a vehement outburst of indignation that it is setting itself up in opposition to the people's will, and that the time has arrived either for sweeping it away as an obstructive body, or for making some organic change in its

constitution. On the other hand, should its members pay little or no attention to legislation, should it devote little time to the revision and amendment of bills, then the Senate is characterised as a useless part of the constitutional machinery. It must be admitted that of late years this body has yielded to the force of circumstances with wonderful equanimity, and has not in any way allowed its comfort to be disturbed by a display of legislative activity. Under such circumstances it is easy to understand that the Canadian Senate does not exercise any large influence on the conduct of public affairs, though it must be admitted that it contains many men of great ability and experience. It appears to be paying the penalty of being modelled after a house which originated centuries ago when parliamentary institutions were in course of development, and the House of Commons had not the great power it now possesses.

The House of Commons, the great governing body of the Dominion, has been made, so far as circumstances will permit, a copy of the English House. An English parliamentarian, visiting this body whilst in session, would at once see how closely the public men of the Dominion endeavour to follow the rules and usages of that great Parliament which has always been the archetype of all legislative bodies throughout the world. Not only in the House of Commons at Ottawa, but in all the Assemblies of the large provinces, he would see the Speaker and Clerks dressed in silk robes, the gilt mace on the table, the serjeant-at-arms in his official costume, the members observing the time honoured rules of debate, and paying that respect to the Chair which was so long a characteristic of the English House of Commons until 'obstruction' became the policy of a faction. In a new country some of these forms may seem antiquated and out of place, but nevertheless they will be interesting evidences to an Englishman of the tenacity with which the people of a great colony adhere to British customs and traditions. In this respect the Canadian Parliament differs from the Congress of the United States, in which the procedure has in the course of years become very different in essential respects from that of England, on which it was originally based. The conservatism of the Canadians in this particular is the more remarkable when

*History*  
we consider that in the Parliament of Canada and the Legislature of Quebec there are so many members speaking the French language, who might be expected not to have the same traditional respect for the old forms of the British Legislature. Out of the two hundred and ~~eleven~~ <sup>advisors</sup> members who compose the Canadian Commons, ~~some fifty at least~~ address the House from time to time in French; and in their knowledge of parliamentary rules, of the working of parliamentary institutions, they are in no way behind the English majority. *History*

Of the two hundred and ~~eleven~~ members of the House of Commons, ninety-two come from the great province of Ontario, sixty-five from Quebec, and the remainder from the maritime and smaller provinces. In rearranging the representation after each decennial census, the Act of Union provides that 'there shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census), as the number sixty-five bears to the number of the population of Quebec.' By this ingenious arrangement, originally contrived in the interest of the French Canadian section, the representation is kept within certain limits.

[ It must be admitted, however, that two hundred and eleven members are a large number of representatives for five millions of people, when compared with the three hundred and twenty-five members who represent over fifty millions in the House of Representatives. ]

We have in the foregoing paragraphs given a mere summary of the leading features of the government to which is entrusted the work of administration and of legislation for the Dominion. This government has the control of all matters affecting trade and commerce, currency and coinage, banking and the issue of paper money, postal affairs, militia and defence, navigation and shipping, fisheries, Indians and Indian lands, the Criminal Law, patents of invention and discovery, copyrights, naturalization of aliens, railways of an international and interprovincial character; and, in short, of all matters of a Dominion or national import. It can alone impose and collect duties on imports, and regulate the general trade of the Dominion. On the other hand, the Provinces legislate separately on matters of a purely municipal and provincial nature, such as direct taxation for provincial pur-



poses, local works and undertakings, incorporation of companies for provincial objects, property and civil rights, establishment, maintenance and management of hospitals, asylums, and charitable institutions generally, excepting marine hospitals. In each province there is a Legislature generally composed of two Houses, a Legislative Council and an Assembly. It is noteworthy that in Ontario, Manitoba, and British Columbia, the Upper House has been abolished, and so far apparently without any detriment to the public interests. In this respect there is a divergence from the constitutional practice of the United States, where the old British system of two Houses has been rigidly preserved in all their legislative bodies; but there is, it must be remembered, a considerable difference between the functions and responsibilities of a Canadian Legislative Council, and those of even a State Senate. The latter is elected by the people, and has powers hardly inferior to those of the lower house, while the Legislative Councils are, with the exception of the elected body in Prince Edward Island, nominated by the Lieutenant-Governor in Council, while their legislative functions are a feeble reproduction of those of the House of Lords. It may be added here that the necessity for having an upper house to revise and control hasty legislation, and exercise a supervision over the acts of the administration,—the principal uses of an upper chamber under an English parliamentary system,—is superseded to a great extent in the provinces by the fact to which we shall presently refer, that the Lieutenant-Governors can *veto*, and the Governor-General disallow, any act of a provincial legislature which, after due consideration, has been shown to be unconstitutional or otherwise antagonistic to the interests of the Dominion.

The administration of affairs in each province, the Legislatures of which meet once every year, is placed under a Lieutenant-Governor, appointed and removable by the Governor-General in Council. The principles of responsible government obtain in every province as in the Dominion. The executive council, which advises the Lieutenant-Governor, holds office only whilst it has the confidence and support of the majority in the Assembly. In some of the provinces it takes nine or ten persons to manage the provincial or local affairs of three or four hundred thousand

people. In the three provinces of Nova Scotia, New Brunswick, and Prince Edward Island, there are three Legislatures, with an aggregate of one hundred and sixty members, and three executive councils, with twenty-five ministers in all; and yet these provinces have altogether only a population of less than a million souls. The affairs of the Empire State of New York, with its population of five millions,—equal to that of Canada,—are managed by a Legislature of one hundred and sixty members, and some seven heads of departments, including the Governor. The proposition which has been often mooted of uniting the smaller provinces under one government does not, however, obtain any large measure of support, since it is antagonistic to the principle which lies at the basis of the Canadian Confederation, that each of the old provinces should preserve its autonomy as far as possible.

We come now to consider the division of powers between the central and provincial governments; the most important part of the constitution, involving, as it necessarily does, the unity and security of the Dominion. We have already shown that the general government has jurisdiction over all questions which affect the Dominion, while the Provinces have jurisdiction over matters of a purely provincial, local, and municipal character. In dealing with this important question the Canadians have endeavoured to profit by the experience of their American neighbours, and to frame their constitution so as to avoid any dangerous assertion of 'State Rights.' Happily for Canada there has been no question of slavery to divide one section from the other. No climatic conditions exist in the Dominion, as in the United States, to create those differences of habit and temperament which make the Southerners practically a distinct people. What diversities of interests exist in the Dominion arise from the geographical situation of the Provinces. We see on the seaboard a Maritime section, where the people are mainly engaged in mining or maritime pursuits; again in the West, a great prosperous agricultural and manufacturing community. In the arrangements of tariffs the peculiar interests of the diverse sections—especially of the Maritime Provinces—have to be carefully considered, and are no doubt at times a cause of considerable perplexity to Governments and Parliaments; but this diversity

of interests was not a source of embarrassment at the time of the formation of the constitution. Neither has any difficulty arisen from the existence in one Province of a large and growing population, closely united in all matters affecting their language and institutions. On the contrary, the federal constitution is to a large extent based on principles favourable to the existence of the French Canadians as a distinct section of the population of Canada.

Accordingly, in perfecting the provisions of the new constitution, the public men of the provinces had not to contend with any great difficulties arising out of a diversity of opinions and interests. They were able to make such a division of powers between the general and provincial governments as was quite satisfactory at the time to all the provinces. Availing themselves of the experience of the United States, they adopted at the outset a principle with respect to the balance of power the very reverse of that which obtains in the constitution of that country. It is expressly laid down in that constitution that 'the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.' Now, in the Canadian Constitution, the powers of the provincial governments are distinctly specified, while those of the general government cover the whole ground of legislation not so expressly reserved to the provincial authorities. The Dominion Government is authorised in express terms 'to make laws for the peace, order, and good government of Canada in relation to all matters not coming within the classes by this Act (the Act of Union) assigned exclusively to the legislatures of the provinces;' and in addition to this general provision it is enacted that 'any matter coming within any of the classes of subjects enumerated in this section (that is, the section defining the powers of the general Parliament) shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects, assigned exclusively to the legislatures of the provinces.'

The object of the foregoing provision can be clearly understood from the language of the astute Premier of Canada, Sir John Macdonald, when he explained the details of confederation to the

Legislature. 'We have thus avoided,' he said, 'that great source of weakness which has been the cause of the disruption of the United States; we have avoided all conflict of jurisdiction and authority.' After an experience of *seventeen* years, it must be acknowledged that the Constitution has worked exceedingly well as a rule, but at the same time it is evident that the hopes of the Canadian Premier were somewhat too sanguine. In fact, it is obviously impossible, under a written constitution, defining the respective powers of separate political authorities, to prevent questions of doubt arising as to where really rests the right of legislation in certain matters. The numerous cases that have already come before the courts of Canada and the Privy Council of England, show how difficult it is by mere words to fix the legislative limits of the central and provincial governments. It already takes several volumes to comprise all the reports and pamphlets that have appeared up to this time on this troublesome question of jurisdiction.

The constitution of Canada provides a means of arriving at a solution of such difficulties as are likely to arise from time to time in the working of the federal system. Here again the authors of federation have availed themselves of the experience of their American neighbours, and have established a Supreme Court or general Court of Appeal for Canada, whose highest functions are to decide these questions of jurisdiction. The decisions of this court are already doing much to solve difficulties that impede the successful operation of the constitution. As a rule, cases come before the Supreme Court on appeal from the lower courts, but the law regulating its jurisdiction provides that the Governor-in-council may refer any matter to this Court for an opinion. [In this respect the Court appears to have a wider scope than is given to the Supreme Court of the United States, which only adjudicates on the facts of the particular case submitted to it through the process of law, and is not called upon by the Government to express an opinion on a general political proposition. When the constitution of the United States was under consideration in 1787 the Convention refused to entertain favourably the proposition that 'each branch of the Legislature, as well as the Supreme Executive, shall have authority to require the opinions of the

Supreme Judicial Court upon important questions of law, and upon solemn occasions.' Not only may the Governor-General refer to the Supreme Court of Canada for 'hearing or considering any matter whatsoever as he may think fit,' but either House of Parliament may send to the same tribunal for examination and report any private bill or petition for a private bill on which a question of jurisdiction has been raised. It is also provided that it shall have jurisdiction in cases of controversy between the Dominion and the Provinces, and between the Provinces themselves, on condition that the Legislature of a Province shall pass an Act agreeing to such jurisdiction. But the Supreme Court of Canada is not the court of last resort for Canada. The people have an inherent right, as subjects of the Queen, to appeal to the Judicial Committee of the Privy Council of England. Several cases, involving constitutional issues of great moment, have already come before that learned body, and on more than one occasion the decisions of the Supreme Court have been reversed, though the general result has been so far to strengthen confidence in the Canadian tribunal.

But it is not only by means of the Courts that a check is imposed upon hasty or unconstitutional legislation. The constitution provides that the Governor-General may veto or reserve any bill passed by the two Houses of Parliament when it conflicts with imperial interests or imperial legislation. The veto, however, has never been exercised in the history of Canada, but it was until recently the practice to reserve for Her Majesty's assent such bills as appeared to fall within certain classes of subjects expressly set forth in the royal instructions to the Governor-General. Since Confederation, however, the Imperial Government has materially modified these instructions, because it has been deemed 'inadvisable that they should contain anything which could be interpreted as limiting or defining the legislative powers conferred in 1867 on the Dominion Parliament.'

It is now understood that the reserved power of disallowance which Her Majesty's Government possesses under the law is sufficient to meet all possible cases. In the Provinces the Lieutenant-Governors may also veto bills of the Legislature, or reserve them for the consideration of the Governor-General in

council. It is noteworthy that in the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, the Lieutenant-Governors have frequently withheld their assent,—a power not exercised by the Crown in England since the days of Queen Anne. In this case these officials can exercise a power greater than that of the President or the Governors of States, since the Legislatures cannot, under the Canadian constitution, pass the bill over the veto by a two-thirds majority. The power has never been exercised in the larger Provinces, and though it is of course in conformity with the letter of the law, it seems at variance with the spirit and principle of responsible government. The exercise of the power is in fact unnecessary, since the constitution gives to the general government the power of annulling such provincial Acts as are considered unconstitutional. The Dominion Government supervises all the Provincial legislation, and has in a few cases disallowed certain Provincial Acts. This power is exercised very carefully, as it is regarded with intense jealousy by the Provincial Governments. In fact in the case of one bill disallowed by the Dominion Government, the Legislature of Ontario re-enacted it on several occasions, though of course only to have it again rejected. This fact shows the delicate position in which the Dominion Government is placed in exercising a power which gives it so wide a control over provincial legislation. Any injustice or abuse of authority would undoubtedly lead to grave complications.

We have now reviewed the leading features of the constitutional development of Canada, and shown in what respects it is based on the American and British systems of government. Englishmen generally will assuredly find some satisfaction in the fact that their greatest dependency has endeavoured to follow so closely the leading principles of the parliamentary government of the parent State. The constitution, on the whole, appears to be a successful effort of statesmanship, and well adapted to promote the unity of the Dominion, if worked in a spirit of compromise and conciliation. Canada is now governed by a political system which, from the village or town council up to the parliament of the Dominion, is intended to give the people full control over their own affairs. At the base of the entire political organisation

lie those municipal institutions whose origin must be sought in the village communities of the Germanic tribes. Each province is divided into distinct municipal districts, whose purely local affairs are governed by elected bodies, in accordance with a well matured system of law. Still higher up in the body politic is the province with a government, whose functions and responsibilities are limited by the federal constitution. Then comes the general government to complete the structure—to give unity and harmony to the whole. With a federal system which gives due strength to the central authority, and at the same time every freedom to the provincial organisations; with a judiciary free from popular influences, and distinguished for character and learning; with a public service, resting on the safe tenure of good behaviour; with a people who respect the laws;—the Dominion of Canada must have a bright career before her, if her political development continues to be promoted on the same wise principles that so far illustrate her constitutional history.

The inquiry now naturally suggests itself, what will be the outcome of this development; what is the destiny in store for a country showing so much energy and enterprise in all the pursuits of industry, and such admirable capacity for self-government? The five millions of people who now inhabit the Dominion must double in number within a decade or two, according as the agricultural and mineral wealth of her new territories is developed. When millions of people inhabit a continuous chain of provinces from the Atlantic to the Pacific, will they be satisfied with their present inferior position? This is a question that presses itself more and more upon the attention of statesmen and publicists interested in the unity of the Empire.

How slight the ties are that now bind Canada to the parent State is very clearly shown by the fact, that she might to-morrow become an independent power without any immediate perceptible effect on the prosperity or greatness of Britain. For the moment it would simply mean that Her Majesty's Government would have one governor less to appoint in her dominions, and that the Colonial Office would have fewer despatches to write and receive in future. The regiment that now keeps up a semblance of British rule in Halifax would be removed, while



the fleet would no longer be bound to make that port a headquarters in American waters. As far as the commercial relations of the two countries are concerned—the important point, probably, in the opinion of many Englishmen—these would not be affected to any marked degree by the separation of the colony from the parent State, since the Dominion now imposes duties on imports without much consideration for British manufacturing interests. Canada would then be able to make her own treaties with foreign nations without any reference to the Imperial authorities. On the other hand, Canada would have to increase her expenditures for the purposes of national defence, and of keeping up a little staff of envoys and consuls, besides paying for other privileges inseparable from a national existence. But national aspirations are the natural outcome of the growth and prosperity of a people. The great forces which are silently at work, developing a national character, may become more powerful as the years pass than the sentimental feeling which now binds Canada to the parent State. It is quite certain, however, that it will be with very great reluctance that Canada will sever the connection to which she has faithfully adhered for a century and more. Should the time arrive for Independence, the records of her history will probably show that she had far outgrown a position of mere colonial dependency, and that it was not possible to devise a plan which would enable her to remain in the Empire on terms compatible with her dignity and security.

Of course should Canada at any future time be dissatisfied with the semi-independent position she now occupies, and begin seriously to consider the necessity for a change in her political condition, there is always open to her the alternative of annexation to the great Republican Power that lies to her south. Some persons may consider on first reflection that the natural political, and commercial tendency of a country situated like Canada must be towards connection with a people whose rapid development is the most remarkable event of the century. By the time a new century dawns there will be probably over eighty million people within the borders of the

United States, and it would seem difficult for the Canadian people to resist the powerful influences that would attract them towards the Republic. But there is certainly no evidence before us just now to lead us to such a conclusion. Indeed, we believe that every year which carries Canada further in her career of political and industrial development, renders annexation less probable. We have already shown that it was very different forty-five years ago when Canada was relatively a poor and ill-governed country. But the effect of the liberal Colonial policy of England since 1840 has been entirely to dispel all feelings of discontent, and to strengthen the attachment of all classes of the people to their own country and its institutions. The Confederation of the Provinces, by enlarging the arena of political action, and increasing the facilities for trade and commerce, has created a national spirit among the people: a laudable desire, especially among the younger men, to build up a new nationality to the north of the American Republic, if possible in close connection with the parent State. Of course it would be very different were Canada ill-governed; were her trade to diminish, and her great north-west territory to become a burthen instead of a source of wealth and population. If during the closing years of this century Canadians should see the failure of all their great schemes of internal development, probably a strong annexation party would soon assert itself; but at present there is every evidence to prove that Confederation is a success, and that the Canadians are capable of working out their political fortunes apart from the United States.

In the meantime, before any movement has been made in Canada in the direction either of Independence or Annexation, prominent Englishmen are combining with prominent Colonists to place, if possible, the relations of the Colonies with the mother country on a more satisfactory and durable basis. The matter has gone so far as to require a conference in London for the purpose of considering the best means of preserving the integrity of the empire. The result of the conference has been the formation of a society, called 'The Imperial Federation League,' whose object is stated to be 'to secure by Fede-

*The Imperial Federation League  
is a society of Englishmen  
and Colonists who are  
desirous of securing the  
integrity of the Empire  
by the formation of a  
League of Nations.*

ration the permanent unity of the empire.' This scheme of Federation is 'not to interfere with the existing rights of local parliaments as regards local affairs,' but should combine 'on an equitable basis the resources of the empire for the maintenance of common interests and adequately provide for an organised defence of common rights.'

The Federation of the empire is a scheme certainly calculated by its Imperial scope to strike the imagination of the political enthusiast. It is a scheme which has been dreamed of by statesmen and students since the days of Edmund Burke. Its realisation, however, is surrounded with the gravest difficulties which appear insuperable to some practical statesmen, to whom it is yet a novel question brought into prominence within a few months. A federation of the empire, in the broadest sense of the phrase, means the creation of an Imperial Parliament which may legislate for the general purposes of the empire, and the establishment or continuance of legislatures in each country or dependency to legislate for local and minor objects. Before this can be realised, England must be convinced of the necessity of reconstructing her constitutional system in vital particulars, of granting legislatures to Scotland and Ireland, of establishing a Supreme Court to adjudicate on the questions which would inevitably arise in the legal construction of the written constitution which must bind together the federation. On the other hand, Canada would have to make radical changes in her federal system so as to adapt it to the new order of things. In all probability her general parliament would have to be abolished, and each province represented in the Imperial Parliament, whose functions it would be to legislate for such general objects as now appertain to the Dominion. The tariffs of the Colonies would have to be arranged by the Imperial Parliament, and the result would certainly be, as things are now, the free trade and not the protective system which at present prevails in Canada and Victoria. Considering that such a grand scheme of federation is impracticable on the face of it, the advocates of Imperial unity propose a Colonial Council to sit in London, and deliberate on such questions as affect the empire as a whole, though no one

explains how it is to work in harmony with and exercise any powerful influence on the Imperial Government and Parliament. It is quite evident that while there is floating through the minds of the advocates of Imperial federation a vague idea of the desirability and necessity of Imperial unity, no one has yet been able to outline a plan which has a practical basis of action. The Premier of Canada, who is a thorough Imperialist, has frankly confessed in a brilliant speech, quite recently delivered in Ontario in the presence of one of the largest assemblages of influential men that ever met in Canada, that representation in an Imperial Parliament is impracticable, and that Canada would not in any way lessen or impair her present admirable system of home government. Whilst admitting the impracticability of the idea of a federation of the empire in the wide sense generally given it, he appeared to think that some scheme could be devised to give Canada a higher status in the world, and at the same time enable her to remain associated with the empire for certain common objects and for defence particularly. *His speech was very well received by many able & influential Englishmen & Canadians*

As we look over the Colonial empire of Great Britain we see that the time is not far distant when all the groups of her self-governing colonies in the western and eastern hemispheres will be formed into federations based more or less on the Canadian system. The Australian Colonies have already taken a step in this direction, and there is now every reason to believe that the scheme of having a federal council to deal with certain matters common to all will be realised ere many months pass away. The South African Colonies may even be forced, when they emerge from their present difficulties, to obey the common law of destiny which is bringing all the colonial communities into closer connection with each other. It was even proposed to unite the island of Jamaica with the dominion of Canada, but this project has not been favourably entertained, and in referring to it now we wish merely to show the tendency in the West Indian Colonies themselves towards a larger political status which will enable them to develop their industry and commerce to a greater extent than seems possible while they remain isolated political communities without a common bond of interest.

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In the meantime while ~~our~~ colonial dependencies are developing their general resources, and making steady progress in their political condition, it is the duty and interest of British statesmen to give every encouragement to the movement that is on foot to place, if possible, the relations between England and her great colonies on a more satisfactory basis. It is desirable that every attention should be given to a subject which is now engrossing so much attention. It would be a matter of regret if it could be said hereafter that the colonies separated from the mother country because she was indifferent to the connection, and made no earnest effort to bring them nearer to her on terms reconcilable with their interests and self-respect.

The success which has so far attended the efforts of the Canadian people to develop their material resources, and place their system of government on a stable foundation, leads us to entertain the most sanguine hopes as to the future of their country. For a century they have successfully resisted all the influences which might be supposed to draw them closer to the United States, and have steadily laboured, in the face of not a few obstacles, to strengthen their position to the north of the American Republic. Step by step they are working their way over the prairies and mountains of the Continent toward the Pacific Ocean; building railways and forming new provinces, ere long to be filled up by an industrious and sturdy population like that which has achieved such satisfactory results in old Canada, and in the country by the sea. If they continue during a few decades more to be animated by the same public spirit that has distinguished their efforts since the commencement of Confederation, Canada will be able to assume a much more conspicuous position among the free communities of the world, and may prove a formidable rival even of the United States in the great work which both have to accomplish on the Continent of America. And it is assuredly the earnest desire of Canadians as well as Englishmen that if when that time comes a large scheme of federation is clearly impracticable, there may exist at least such an alliance between Canada and the parent State as will give greater security to

*or connection*

both, and afford to the world the interesting spectacle of a people who owe to Great Britain their free institutions never forgetting in the fulness of their strength and prosperity the land of their origin, but still bound to her by the closest ties of sympathy and affection, and ever ready to lend her material assistance in the hour of need. *interest*

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#### ART. VI.—STUART PRETENDERS.

**B**ARON DE REUMONT, formerly Prussian Ambassador at Florence, and author of a *History of the City of Rome*, published in 1882 in the *Historisches Jahrbuch der Goerres Gesellschaft*, a very brief article on 'A Stuart Pretender in the Seventeenth Century.' A learned Jesuit father wrote a history of the *Conversion of Charles II., King of England, to the Catholic Church*, which appeared, in 1863, in the *Civiltà Cattolica* (Fifth Series, vols. VI. and VII.) and in the course of this history gave an account of the eldest of all the natural sons of that monarch, addressed to the then General of the Jesuits, Father Oliva, residing at S. Andrea del Quirinale in Rome. He also gave extracts from the entrance books of the Jesuit Novitiate, proving that a natural son of Charles II. had been admitted a novice into the order of Jesuits. The last will and testament of this son of Charles II. was published in *l' Italia Reale*, a Naples newspaper (1881, No. 13), by Don Scipione Volpicella, first librarian in the National Library, Naples. And also, the parish priest of S. Sofia in St. Giovanni Carbonara, Naples, lately discovered a certificate, partly illegible, of the marriage, on the 19th of February, 1669, of Signor Giacomo Enrico Boveri . . . and Signora Teresa Corona. The Jesuit Father who wrote the articles in the *Civiltà Cattolica* seems to have been unaware that James Stuart, alias De la Cloche du Bourg de Jersey, *alias* Henri de Rohan, *alias* Boveri, had ever